



2001 SENATE BILL 71

February 28, 2001 - Introduced by Senators DECKER, BURKE, MOEN, ERPENBACH, PLACHE, BAUMGART, MOORE, GEORGE, GROBSCHMIDT and SCHULTZ, cosponsored by Representatives M. LEHMAN, STASKUNAS, UNDERHEIM, ZIEGELBAUER, SERATTI, LOEFFELHOLZ, F. LASEE, MCCORMICK, BOCK, WOOD, GRONEMUS, MILLER, CULLEN, KREUSER, J. LEHMAN, LA FAVE, COLON, HUBER, PLOUFF and HEBL. Referred to Committee on Health, Utilities, Veterans and Military Affairs.

1 **AN ACT to amend** 146.83 (1) (b), 146.83 (1) (c), 908.03 (6m) (d) and 908.03 (6m)
2 (d); and **to create** 146.83 (3m) of the statutes; **relating to:** uniform fees
3 chargeable for certified duplicate health care records and X-ray reports and
4 referral of X-rays and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law relating to patient health care records, patients or other persons may receive a copy of the patient's health care record or X-ray report upon submitting a statement of informed consent for the release and upon payment of reasonable costs.

Under current law, relating to evidence in court proceedings, the department of health and family services (DHFS) must, by rule, prescribe uniform fees that a health care provider may charge attorneys to obtain certified duplicate health care records that are subject to subpoena. (Health care providers affected by this law are chiropractors, dentists and physician assistants, nonpublic physicians, nurse anesthetists, massage therapists and bodyworkers, and certain nonpublic facilities, associations, or corporations.) The uniform fees must be based on an approximation of the actual costs but also permit the health care provider to charge for postage or other delivery costs. Currently, rules of DHFS permit a health care provider to charge attorneys the greater of \$8.40 per request or 45 cents per record page for the first 50 pages and 25 cents per record page for the remaining pages, \$4 for each X-ray copy, and the actual costs of postage or other means of delivery of the records.

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This bill changes laws relating to patient health care records to require that DHFS promulgate rules that prescribe fees, based on an approximation of reasonable costs, that, together with applicable state tax, are the maximum amount that, beginning April 1, 2003, a health care provider may charge for duplicate patient health care records, for duplicate X-ray reports, or for the referral of X-rays to another health care provider. The rules must also permit the health care provider to charge for actual postage or other actual delivery costs.

This bill changes laws relating to evidence in court proceedings to specify that, before April 1, 2003, the uniform fees that DHFS prescribes by rule for certified duplicate health care records, plus applicable tax, are the maximum amount that a health care provider may charge for the records, that the health care provider may also charge for actual postage or other actual delivery costs, and that a court action need not be commenced for this law to apply. After March 31, 2003, for duplicate patient health care records and duplicate X-ray reports or the referral of X-rays to another health care provider requested before a court action is commenced, rules that specify fees that DHFS is required, under the bill, to promulgate under the patient health care record laws apply.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 146.83 (1) (b) of the statutes is amended to read:

2 146.83 (1) (b) Receive a copy of the patient's health care records upon payment
3 of reasonable costs fees, as established by rule under sub. (3m).

4 **SECTION 2.** 146.83 (1) (c) of the statutes is amended to read:

5 146.83 (1) (c) Receive a copy of the health care provider's X-ray reports or have
6 the X-rays referred to another health care provider of the patient's choice upon
7 payment of reasonable costs fees, as established by rule under sub. (3m).

8 **SECTION 3.** 146.83 (3m) of the statutes is created to read:

9 146.83 (3m) The department shall, by rule, prescribe fees that are based on an
10 approximation of actual costs. The fees, plus applicable state tax, are the maximum
11 amount that a health care provider may charge under sub. (1) (b) for duplicate
12 patient health care records and under sub. (1) (c) for duplicate X-ray reports or the

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1 referral of X-rays to another health care provider of the patient's choice. The rule
2 shall also permit the health care provider to charge for actual postage or other actual
3 delivery costs.

4 **SECTION 4.** 908.03 (6m) (d) of the statutes is amended to read:

5 908.03 **(6m)** (d) *Fees.* The Before April 1, 2003, the department of health and
6 family services shall, by rule, prescribe uniform fees that are based on an
7 approximation of the actual costs. The fees, plus applicable state tax, are the
8 maximum amount that a health care provider may charge under par. (e) 3. for
9 certified duplicate patient health care records. The rule shall also allow the health
10 care provider to charge for actual postage or other actual delivery costs. The
11 commencement of an action is not a prerequisite for the application of this
12 paragraph.

13 **SECTION 5.** 908.03 (6m) (d) of the statutes, as affected by 2001 Wisconsin Act
14 (this act), is amended to read:

15 908.03 **(6m)** (d) *Fees.* ~~Before April 1~~ After March 31, 2003 the department of
16 health and family services shall, by rule, prescribe uniform fees that are based on an
17 approximation of actual costs. The fees, plus applicable state tax, are the maximum
18 amount that a health care provider may charge for certified duplicate patient health
19 care records. The rule shall also allow the health care provider to charge for actual
20 postage or other actual delivery costs. ~~The commencement of an action is not a~~
21 ~~prerequisite for the application of this paragraph~~ For duplicate patient health care
22 records and duplicate X-ray reports or the referral of X-rays to another health care
23 provider that are requested before commencement of an action, s. 146.83 (1) (b) and
24 (c) and (3m) applies.

25 **SECTION 6. Nonstatutory provisions.**

